6. General discussion: "Draft optional protocol to the International Covenant on Economic, Social and Cultural Rights".

7. Relations with United Nations organs and other treaty bodies.

8. Formulation of suggestions and recommendations of a general nature based on the consideration of reports submitted by States parties to the Covenant and by the specialized agencies.

9. Report of the Committee to the Economic and Social Council.

Annex IV

REPORT OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS TO THE COMMISSION ON HUMAN RIGHTS ON A DRAFT OPTIONAL PROTOCOL FOR THE CONSIDERATION OF COMMUNICATIONS CONCERNING NON-COMPLIANCE WITH THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Introduction

1. In the Vienna Declaration and Programme of Action, 1/ the World Conference on Human Rights "encourage[d] the Commission on Human Rights, in cooperation with the Committee on Economic, Social and Cultural Rights, to continue the examination of optional protocols to the International Covenant on Economic, Social and Cultural Rights" (part II, para. 75). Although the reference is to "protocols" (in the plural), the only specific proposal before the Conference related to an optional communications procedure. This commitment was reiterated by the Commission on Human Rights, which, in paragraph 6 of its resolution 1994/20 of 1 March 1994, took note of the "steps taken by the Committee ... for the drafting of an optional protocol ... granting the right of individuals or groups to submit communications concerning non-compliance with the Covenant, and invite[d] the Committee to report thereon to the Commission". A brief progress report (E/CN.4/1996/96) on these deliberations was submitted to the Commission on Human Rights at its fifty-second session. The Commission, in paragraph 5 of its resolution 1996/11 of 11 April 1996, welcomed the information and took note of the steps taken by the Committee.

2. The preparation of an optional protocol was first discussed in the Committee in 1990 and the matter has been formally under consideration by the Committee since its sixth session, in 1991. 2/ The following year, the adoption of such a protocol was expressly recommended by Mr. Danilo Türk, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the realization of economic, social and cultural rights, in his final report (E/CN.4/Sub.2/1992/16, para. 211). Subsequently, four separate reports were prepared at the Committee's request by Mr. Philip Alston 3/ and provided the basis for extensive discussions within the Committee.

3. The present report reflects the outcome of the discussions held by the Committee over the course of a number of sessions. In particular, the Committee conducted in-depth discussions based on a specific set of draft proposals from its eleventh to fifteenth sessions. 4/ It adopted the present report at its fifteenth session. In doing so, the Committee decided that, while it would prefer wherever possible to adopt a consensus position in relation to the issues under consideration, its report would also reflect divergent viewpoints whenever these could not be brought together in a consensus position. In the course of the Committee's discussions, one of its members - Mr. Grissa - indicated that he was opposed to the proposal to draft an optional protocol. His views are reflected in the summary records, in particular that of the 43rd meeting (E/C.12/1996/SR.43).

4. The present report provides an analysis of the issues that will need to be examined by the Commission on Human Rights in its consideration of the proposed optional protocol. It takes account of the comments made by members

of the Committee in the course of its various discussions and, in particular, reflects the outcome of the Committee's deliberations at its fifteenth session. Careful note was taken in the course of those deliberations of very helpful oral and written submissions by the International Labour Organization, the Division for the Advancement of Women of the United Nations Department for Policy Coordination and Sustainable Development, and the representatives of various non-governmental organizations, as well as of the report of an expert meeting convened in Utrecht by the Netherlands Institute of Human Rights in January 1995 to discuss the draft protocol. 5/

5. Before considering the issues that arise in relation to the content of a draft optional protocol to the Covenant, it is appropriate to consider briefly the broader setting in relation to which such an examination must take place.

I. PARALLEL DEVELOPMENTS IN RELATION TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

6. In the Vienna Declaration and Programme of Action, the World Conference on Human Rights called upon the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women to "quickly examine the possibility of introducing the right of petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women" (part II, para. 40). Subsequently, an expert meeting was convened under independent auspices at the University of Maastricht in the Netherlands from 29 September to 1 October 1994 and adopted a comprehensive draft optional protocol. The general lines of this draft were subsequently endorsed by the Committee on the Elimination of Discrimination against Women (CEDAW) at its fourteenth session, in 1995. 6/

7. At its fortieth session, in 1996, the Commission on the Status of Women established an open-ended sessional working group to examine the issue. The working group held a general exchange of views, followed by an in-depth consideration of the major issues arising from the proposal. 7/ The Commission recommended the renewal of the working group's mandate for 1997 and requested the Secretary-General to prepare two reports containing, respectively, a comparative survey of other comparable international procedures and a synthesis of the views expressed on the issue by Governments and intergovernmental and non-governmental organizations.

II. SIMILAR DEVELOPMENTS IN RELATION TO REGIONAL HUMAN RIGHTS TREATIES

8. In the context of the Organization of American States, the 1988 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador), 8/ which provides for a limited complaints procedure, has now been ratified or acceded to by six States and will enter into force upon acceptance by five more. Pursuant to article 19, paragraph 6:

> "Any instance in which [the right to organize trade unions and the right to education] are violated by action directly attributable to a State Party to this Protocol may give rise, through participation of the Inter-American Commission on Human Rights and, when applicable, of the

Inter-American Court of Human Rights, to application of the system of individual petitions governed by Articles 44 through 51 and 61 through 69 of the American Convention on Human Rights."

9. Of even greater direct relevance is the adoption in November 1995 by the Council of Europe of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints. 9/ As with the proposed optional protocol to the International Covenant on Economic, Social and Cultural Rights, the new procedure is viewed only as a supplement to the reporting mechanism, which remains the primary means of supervising compliance with the European Social Charter. Complaints alleging "unsatisfactory application of the Charter" cannot be submitted by individuals in their own right. Instead, they must be submitted by one of the following groups: (a) designated "international organizations of employers and trade unions"; (b) "other international non-governmental organizations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee"; (c) "representative national organizations of employers and trade unions" within the State against which the complaint is directed (art. 1); (d) "any other representative national non-governmental organization" designated by the State concerned as having the right to lodge complaints against it (art. 2). Groups in categories (b) and (d) may submit complaints only in respect of matters regarding which "they have been recognized as having particular competence" (art. 3). The complainant is required to indicate "in what respect the [Contracting Party] has not ensured the satisfactory application" of a specified provision of the Charter (art. 4).

10. The complaint is initially examined by the Committee of Independent Experts, established under the European Social Charter. Having determined that the complaint is admissible, the Committee calls for observations from both sides as well as from other parties to the Protocol and category (a) organizations (art. 7). It then reports on whether or not the State's application of the relevant provision of the Charter has been "satisfactory" (art. 8). The report is sent confidentially to the parties concerned, to all parties to the Charter and to the Council of Europe's Committee of Ministers. Within four months thereafter it must be sent to the Parliamentary Assembly and be made public. On the basis of the report, the Committee of Ministers adopts a resolution and, if the conclusions of the Committee of Independent Experts are negative, addresses a recommendation to the State concerned (art. 9). The latter is required to report "on the measures it has taken to give effect to the ... recommendation" (art. 10). The Protocol will enter into force upon acceptance by 5 member States of the Council of Europe, of which there are currently 40.

III. PRELIMINARY CONSIDERATIONS

11. At its seventh session, in 1992, the Committee adopted a consolidated "analytical paper" on the proposed optional protocol (E/1993/22, annex IV), which it submitted to the World Conference on Human Rights. In addition to that analysis, the Committee made the following submission in its general statement to the Conference:

> "... the Committee believes that there are strong reasons for adopting a complaints procedure (in the form of an optional protocol to the Covenant) in respect of the economic, social and cultural rights

recognized in the Covenant. Such a procedure would be entirely non-compulsory and would permit communications to be submitted by individuals or groups alleging violations of the rights recognized in the Covenant. It might also include an optional procedure for the consideration of inter-State complaints. Various procedural safeguards designed to guard against abuse of the procedure would be adopted. They would be similar in nature to those applying under the first Optional Protocol to the International Covenant on Civil and Political Rights." (Ibid., annex III, para. 18.)

12. In its analytical paper, the Committee emphasized the following aspects of the proposed optional protocol:

(a) Any protocol to the Covenant will be strictly optional and will thus be applicable only to those States parties which specifically agree to it by way of ratification or accession;

(b) The general principle of permitting complaints to be submitted under an international procedure in relation to economic, social and cultural rights is in no way new or especially innovative, given the precedents that exist in the International Labour Organization and the United Nations Educational, Scientific and Cultural Organization, the procedure established under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) and the Additional Protocol to the European Social Charter;

(c) Experience to date with a wide range of existing international petition procedures indicates that there is no basis for fears that an optional protocol will result in a vast number of complaints;

(d) Under an optional protocol procedure the State party concerned retains the final decision as to what will be done in response to any views adopted by the Committee;

(e) If the principle of the indivisibility, interdependence and interrelatedness of the two sets of rights (civil and political, and economic, social and cultural) is to be upheld in the work of the United Nations, it is essential that a complaints procedure be established under the International Covenant on Economic, Social and Cultural Rights, thereby redressing the imbalance that currently exists.

IV. ANALYSIS OF THE POSSIBLE PROVISIONS OF AN OPTIONAL PROTOCOL

13. The following analysis is based primarily on the Committee's deliberations at its fifteenth session, while also drawing on its earlier discussions between 1991 and 1996. It also draws heavily on the approach adopted in existing communications procedures under United Nations human rights treaties, particularly the first Optional Protocol to the International Covenant on Civil and Political Rights.

14. After a lengthy discussion, the Committee decided not to recommend the inclusion of an inter-State complaints procedure in the proposed optional protocol. It was noted that such a procedure is included in various other core human rights treaties, such as the International Covenant on Civil and

Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. All such procedures apply only between States which have mutually accepted the relevant procedure. The report submitted to the Committee at its fifteenth session summarized the different perspectives on this issue in the following terms:

> "... In principle, there are good reasons to include such a procedure within the optional protocol. It would increase the options available for dealing with economic, social and cultural rights and it would put those rights on a par with those dealt with in the instruments listed above. In practice, however, there are also strong reasons that militate against the inclusion of such a procedure. Those that already exist under comparable United Nations human rights treaties have never been used and Governments have consistently been wary of what has been referred to as 'a Pandora's box, which all parties prefer to keep shut'. Even in ILO the two procedures for inter-State complaints (under art. 26 of the Constitution and under the freedom of association procedure) have only been used four times and once, respectively. This explains why such a procedure has not been proposed in relation to the draft optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women." (E/C.12/1996/CRP.2/Add.1, para. 12.)

A. Preamble

15. The preamble to the first Optional Protocol to the International Covenant on Civil and Political Rights consists of a single paragraph. For present purposes it would seem appropriate not to depart significantly from the basic simplicity of that approach. However, since the proposed protocol is not being adopted at the same time as the Covenant (as was the case of the first Optional Protocol to the International Covenant on Civil and Political Rights), it is desirable to indicate some of the reasons for establishing an additional procedure. These relate to the interdependence of the two sets of rights, the contribution of the World Conference on Human Rights, the role of the Committee on Economic, Social and Cultural Rights, the importance of recourse procedures in relation to economic, social and cultural rights, the relationship between this protocol and the international community's broader economic and social development objectives, and the nature of the obligations specified in article 2, paragraph 1, of the Covenant.

16. The proposed text of the preamble is:

> "The States Parties to the present Protocol,
>
> "[a] Emphasizing that social justice and development, including the realization of economic, social and cultural rights, are essential elements in the construction of a just and equitable national and international order,
>
> "[b] Recalling that the Vienna Declaration and Programme of Action recognized that 'all human rights are universal, indivisible and interdependent and interrelated',

"[c] Emphasizing the role of the Economic and Social Council, and through it the Committee on Economic, Social and Cultural Rights (hereinafter referred to as the Committee), in developing a better understanding of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as the Covenant) and in promoting the realization of the rights recognized therein,

"[d] Recalling the provision of article 2, paragraph 1, of the Covenant pursuant to which 'Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures',

"[e] Noting that the possibility for the subjects of economic, social and cultural rights to submit complaints of alleged violations of those rights is a necessary means of recourse to guarantee the full enjoyment of the rights,

"[f] Considering that, in order further to achieve the purposes of the Covenant and the implementation of its provisions, it is appropriate to enable the Committee to receive and examine, in accordance with the provisions of this Protocol, communications alleging violations of the Covenant,

"Have agreed as follows:".

B. Scope of the Committee's competence

1. Questions of terminology

17. In communications procedures generally, the first article contains the undertaking pursuant to which a State party recognizes the competence of the Committee to receive communications. It is traditional in such texts to distinguish between the receipt of a communication (which does not necessarily imply that it will subsequently be examined) and the consideration, or examination, phase (which occurs once the various procedural requirements have been met). The first Optional Protocol to the International Covenant on Civil and Political Rights uses both the latter verbs - "consider" and "examine" - without implying any clear distinction. Given the Human Rights Committee's practice of referring to the "examination" of communications, that verb is used in the following proposals.

18. The Committee recommends that the protocol refer to a "violation ... of ... the rights set forth in the Covenant", thereby following the wording of article 1 of the first Optional Protocol to the International Covenant on Civil and Political Rights. The report submitted to the Committee at its fifteenth session (E/C.12/1996/CRP.2/Add.1) also noted various other options which had been put forward:

"19. [One option is to] refer to a failure by the State party to give effect to its obligations under the Covenant (as proposed in the Maastricht draft referred to in para. [5] above, and which amounts to a

hybrid version of the terminology used in article 41 of the Covenant on Civil and Political Rights in relation to inter-State complaints). Other options are to follow the wording of the Additional Protocol to the European Social Charter and refer to a failure to ensure the satisfactory application of a provision or to adopt a formulation proposed by the ILO which would refer to those 'who allege failure by that State party to secure the observance of any of the rights'. In the case of the Covenant, all but the first of these formulations might be read as applying not only to the rights recognized in articles 1 to 15 but also to the procedural obligations contained in Part IV of the Covenant relating to reporting, etc. It is not clear, however, that it is desirable for individuals to be able to bring a communication against a State party on the grounds that it has failed to report in a timely fashion, or at all. While such behaviour clearly constitutes a violation of the State's obligations, there are alternative means by which the Committee has sought to address such problems.

"20. A requirement that a 'violation' be alleged would not have the effect of exposing a State party to a successful complaint solely by virtue of its failure to ensure to a specific complainant the full realization of a given right. The obligation of the State under the Covenant, and thus the question of whether a violation had occurred, would still depend on the facts of the case and a consideration of the implications of the terminology used both in the substantive provision recognizing the right and in article 2 (1) of the Covenant defining the nature of the obligation. There would thus seem to be no reason not to follow the approach used in the first Optional Protocol of referring to a violation. The only qualification would be to use the term 'recognized' rather than 'set forth', in view of the different terminology used in each of the Covenants."

2. Individuals and/or groups as complainants

19. The next question dealt with by the Committee was whether an individual should be permitted to submit a communication. In this regard, it was noted that the Additional Protocol to the European Social Charter had excluded that possibility and adopted a restrictive list of group-based complainants. In the course of a full discussion of this option, all members of the Committee who contributed to the debate agreed that the inclusion of an individual right to petition was essential. It was also recalled in this regard that, already at its seventh session, in 1992, the Committee had indicated a "strong and clear preference for an individual" focus (E/1993/22, annex IV, para. 66).

20. A related issue was whether groups, one or more of whose members claimed to be a victim of a violation, should also be permitted to submit complaints. In this regard, the Committee recalled the reference in Commission on Human Rights resolution 1994/20 of 1 March 1994 to "granting the right of individuals or groups to submit communications" (para. 6), and noted that the Human Rights Committee had, in practice, dealt with many communications submitted by individuals on behalf of affected groups, and vice versa. It was thus agreed that groups, should be included among those alleged victims entitled to submit complaints.

21. The proposed text of article 1, based on the decisions reflected in the preceding analysis, is:

"A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and examine communications from any individuals or groups subject to its jurisdiction in accordance with the provisions of this Protocol."

C. Right to submit a communication

1. Third parties acting "on behalf of" alleged victims

22. The next issue is whether "standing" to submit a communication should be extended to "third parties", in other words individuals and groups who, although not themselves victims of a violation, have what is deemed "a sufficient interest" in the matter (to use the term employed in the CEDAW draft (see para. 6 above)). The report submitted to the Committee at its fifteenth session (E/C.12/1996/CRP.2/Add.1) noted in this regard:

"23. ... this broad approach is not necessary merely in order to permit a communication to be submitted by another person or group on behalf of an individual claiming to be a victim of a violation. The Human Rights Committee has consistently interpreted article 1 of the first Optional Protocol [to the International Covenant on Civil and Political Rights] to accommodate that situation - an approach which is clearly reflected in rule 90 (1)(b) of the Committee's rules of procedure. The broader formulation would therefore seem to envisage a situation in which a public interest group or some other type of non-governmental organization might be authorized by the protocol to bring a complaint without having to identify and act with, or on behalf of, an individual or group claiming to be a victim of a violation. While this would have the advantage of permitting complaints which sought to anticipate violations, whether imminent or merely possible, it would also broaden considerably the scope of the obligation assumed by States parties and would potentially open the door to speculative complaints.

"24. During discussions in the Committee it has been argued that any 'NGOs and other organizations' should be authorized to submit complaints. This would eliminate all requirements such as 'consultative status', links to the country concerned, or special knowledge or particular competence in relation to the issues raised. It would thus make the procedure much more easily accessible than is the case under the European Social Charter and the ILO procedures. Even the non-treaty-based procedure under resolution 1503 has some limits in theory, although not in practice. The proposal would eliminate any need for a nexus between the complainant and the alleged violation. While it is clear that a 'wide open' approach to standing would increase the capacity of the procedure to address every possible issue of relevance, it would seem to come at the price of opening up the procedure to a vast number of complaints which do not have to satisfy any minimum requirements designed to filter out ill-informed or gratuitous complaints.

"25. ... It should also be noted that the requirement to exhaust domestic remedies before lodging a complaint with an international body, which is a standard provision in relation to all comparable human rights

complaints procedures (except that of ILO), would make it somewhat illusory to eliminate the nexus between the complainant(s) and the State party."

23. In the light of these considerations the Committee recommends that the right to submit a complaint should be extended also to individuals or groups who act on behalf of alleged victims. The Committee noted, however, that this formulation should be interpreted only to embrace individuals and groups who, in the view of the Committee, are acting with the knowledge and agreement of the alleged victim(s).

2. Range of rights covered

24. The next issue is whether the procedure should apply to all the rights recognized in the Covenant or only to some of them. The report submitted to the Committee at its fifteenth session noted in this regard:

> "... After canvassing four different options, the Committee's analytical paper submitted to the World Conference opted for an inclusive rather than a restrictive approach. However, in order to exclude the reporting obligations contained in part IV of the Covenant it is proposed to restrict the coverage of the procedure to the rights recognized in articles 1 to 15 of the Covenant. This approach has been supported by the Committee in its deliberations to date, except in relation to questions raised in relation to the right to self-determination recognized in article 1 and in relation to the rights recognized in article 15. It has been suggested that the inclusion of the former could involve a grave danger of the procedure being misused. It may be noted that the right to self-determination is recognized in exactly the same terms in article 1 of the Covenant on Civil and Political Rights and that it is subject to complaints under the first Optional Protocol to that Covenant. In practice, however, the Human Rights Committee has adopted a cautious or restrictive approach to its application. In relation to article 15, it would seem difficult to single it out for exclusion while retaining other formulations of equivalent generality." (Ibid., para. 27.)

25. The Committee recommends that the optional protocol should apply in relation to all the economic, social and cultural rights set forth in the Covenant and that this would include all the rights contained in articles 1 to 15. The Committee noted, however, that the right to self-determination should be dealt with under this procedure only in so far as economic, social and cultural rights dimensions of that right are involved. It considered that the civil and political rights dimensions of the right should remain the preserve of the Human Rights Committee in connection with article 1 of the International Covenant on Civil and Political Rights.

26. Another issue, closely related to the previous one, is whether provision should be made to enable States to accept the procedure provided for in the optional protocol either in relation to all the provisions of articles 1 to 15 (a "comprehensive" approach) or only in relation to particular elements of the Covenant (a "selective" approach). The latter approach, sometimes referred to as a smorgasbord or à la carte approach, could take either of two forms. The first would require States parties to indicate which provisions of the Covenant would not be covered by the procedure they had accepted by becoming a

party to the optional protocol. Each State would thus have to "opt out" in relation to specified provisions if it wished to avoid the application of the optional protocol in relation to all the rights recognized in the Covenant. The second form would require them to "opt in" to the procedure in relation to provisions of the Covenant which they would specify upon becoming a party to the protocol. A further distinction was noted in the report submitted to the Committee at its fifteenth session, which observed that each of these selective approaches:

> "could apply either to articles of the Covenant or, in an even more specific fashion, to specific rights. Thus, for example, under the first approach, a State could identify article 11 as one in relation to which it would accept the complaints procedure (thus covering all the elements - adequate standard of living, food, clothing, housing, etc. - dealt with in that article). Under the second approach it could identify a specific right such as the right to adequate food in relation to which it would accept the procedure. It should be noted that the adoption of a more restrictive coverage in the optional protocol would in no way diminish or otherwise affect the full range of obligations already applicable to every State party to the Covenant." (Ibid., para. 29.)

27. The same report noted the following advantages and disadvantages of permitting any type of selective approach:

> "30. ... Its principal advantages are: (i) it enables States to tailor the extent of the obligations that they accept to fit the situation within the country, thus making it more feasible to accept the principle of a complaints procedure; (ii) it would facilitate a progressive acceptance of a wider range of rights over time; (iii) it would partly resolve the question of which rights are justiciable and to what extent by enabling States to resolve that issue for themselves and expand their approach as the content of individual rights evolves with greater clarity; and (iv) it would make the procedure as a whole more manageable, and thus more acceptable, to a broader range of States.
>
> "31. This option also has some clear disadvantages: (i) the approach might be perceived from a practical viewpoint, although not from a theoretical perspective, to challenge the principle that all rights are equally important; (ii) the approach would differ from the holistic one reflected in the first Optional Protocol to the Covenant on Civil and Political Rights, although it would be consistent with the options given to States to accept some provisions, but not others, when ratifying the European Social Charter; and (iii) there is a risk States might initially opt to accept the procedure only in relation to an unduly narrow range of rights.
>
> "32. Whatever approach is adopted in this regard, it would have to be assumed, given the fundamental importance of articles 2-5 of the Covenant, that they would always be fully applicable in relation to the interpretation of the meaning of any of the specific rights recognized in articles 6-15."

28. After a long debate over this issue, the majority of the members of the Committee who participated expressed a clear preference for a comprehensive approach which would require any State becoming a party to the optional protocol to accept the procedure in relation to all the rights recognized in the Covenant. On the other hand, a strong minority favoured the adoption of a selective approach which would permit States to accept obligations only in relation to a specified range of rights. The minority considered that this could be achieved either by requiring States expressly to "opt out" of provisions that they would need to identify at the time of becoming a party to the protocol or by enabling them to "opt in" in relation to provisions which they would specify.

3. Protecting access to the procedure

29. A related issue concerns protection of the right to submit a complaint. The report submitted to the Committee at its fifteenth session put the issue in the following terms:

> "It is appropriate to include a provision which not only affirms the right of an individual or group to submit a written communication alleging a violation of the rights recognized in the Covenant, but also obliges States parties to do whatever is necessary to enable potential complainants to submit communications. The importance of this aspect of a complaints procedure has consistently been highlighted by the Commission on Human Rights in a series of resolutions since 1990. Based on a report of the Secretary-General [E/CN.4/1994/52], the Commission, in its resolution 1994/70, requested the treaty bodies to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way. The Commission also urged Governments to refrain from all acts of intimidation or reprisal against, inter alia, those who submit or have submitted communications under procedures established by human rights instruments. It therefore seems appropriate for a specific provision of this nature to be included in the protocol." (E/C.12/1996/CRP.2/Add.1, para. 39.)

30. The Committee agreed that such a provision should be included.

31. The proposed text of article 2, based on the decisions reflected in the preceding analysis, is:

> "1. Any individual or group claiming to be a victim of a violation by the State party concerned of any of the economic, social or cultural rights recognized in the Covenant, or any individual or group acting on behalf of such claimant(s), may submit a written communication to the Committee for examination.
>
> "2. States Parties to this Protocol undertake not to hinder in any way the effective exercise of the right to submit a communication and to take all steps necessary to prevent any persecution or sanctioning of any person or group submitting or seeking to submit a communication under this Protocol."

D. Receivability and admissibility

32. Bringing together the various provisions relating to receivability and admissibility within a single article of the optional protocol would seem to be the most convenient approach. For the most part, these various procedural rules are based directly on the formulations used in the first Optional Protocol to the International Covenant on Civil and Political Rights. For the purposes of the present draft they have been reorganized slightly, but the wording remains almost identical in its key provisions.

33. The proposed text of article 3 is:

"1. No communication shall be received by the Committee if it is anonymous or is directed at a State which is not a Party to this Protocol.

"2. The Committee shall declare a communication inadmissible if it:

"(a) does not contain allegations which, if substantiated, would constitute a violation of rights recognized in the Covenant;

"(b) constitutes an abuse of the right to submit a communication; or

"(c) relates to acts and omissions which occurred before the entry into force of this Protocol for the State Party concerned, unless those acts or omissions:

"(i) continue to constitute a violation of the Covenant after the entry into force of the Protocol for that State Party; or

"(ii) have effects which continue beyond the entry into force of this Protocol and those effects themselves appear to constitute a violation of a right recognized in the Covenant.

"3. The Committee shall not declare a communication admissible unless it has ascertained:

"(a) that all available domestic remedies have been exhausted; and

"(b) that a communication submitted by or on behalf of the alleged victim which raises essentially the same issues of fact and law is not being examined under another procedure of international investigation or settlement. The Committee may, however, examine such a communication where the procedure of international investigation or settlement is unreasonably prolonged."

E. Substantiation of complaints

34. In any complaints procedure there is an onus placed upon the complainant to provide information which gives substance to the allegations that have been made. Moreover, it is appropriate to provide the Committee with the opportunity to re-examine a communication if new information is provided to it after it has already taken a decision to declare the communication inadmissible on the basis of its first examination.

35. The proposed text of article 4 is:

> "1. The Committee may decline to continue to examine a communication if the author, after being given a reasonable opportunity to do so, fails to provide information which would sufficiently substantiate the allegations contained in the communication.
>
> "2. The Committee may, upon the request of the author of the complaint, recommence examination of a communication which it has declared inadmissible under article 3 if the circumstances which led to its decision have changed."

F. Interim measures

36. Although the first Optional Protocol to the International Covenant on Civil and Political Rights does not contain a specific provision dealing with interim measures, procedures adopted subsequently by the Human Rights Committee have addressed this important issue. While the Committee does not consider it necessary or desirable to adopt a blanket provision which would apply in all cases, it considers that it should be given the discretion, to be used in potentially serious cases involving the possibility of irreparable harm, to request that interim measures be taken.

37. The proposed text of article 5 is:

> "If at any time after the receipt of a communication, and before a determination on the merits has been reached, a preliminary study gives rise to a reasonable apprehension that the allegations, if substantiated, could lead to irreparable harm, the Committee may request the State Party concerned to take such interim measures as may be necessary to avoid such irreparable harm."

G. Reference to State party and friendly settlement

38. The great majority of communications procedures provide for the possibility of reaching a friendly settlement with the State party concerned. Particularly in view of the nature of economic, social and cultural rights, it would seem especially appropriate to provide for a procedure of friendly settlement in the optional protocol. For this purpose, the Committee would specifically indicate its preparedness to facilitate such a settlement, provided only that the resulting arrangement is based on respect for the rights and obligations contained in the Covenant.

39. Another matter is whether to include a provision comparable to that contained in the International Convention on the Elimination of All Forms of Racial Discrimination (art. 14, para. 6 (a)), according to which the identity

of the individual or groups of individuals concerned shall not be revealed without his or their express consent". In the view of the Committee, the possible need to protect the identity of the alleged victim(s) is a matter best taken care of in the relevant rules of procedure.

40. The other matter in this regard is the setting of a time-limit within which a State must respond to information received from the Committee. The first Optional Protocol to the International Covenant on Civil and Political Rights provides for a period of six months. Consideration was given in the Committee's earlier deliberations to setting a time-limit of three months. It was suggested that that would be conducive to achieving a prompt and equitable solution. The International Labour Organization and other sources made it clear, however, that three months would, in their experience, be too short a time for Governments to respond. The Committee therefore recommends that six months be retained.

41. The proposed text of article 6 is:

> "1. Unless the Committee considers that a communication should be declared inadmissible without reference to the State Party concerned, the Committee shall confidentially bring to the attention of the State Party any communication referred to it under this Protocol.
>
> "2. Within six months, the receiving State shall submit to the Committee explanations or statements and the remedy, if any, that may have been afforded by that State.
>
> "3. During its examination of a communication, the Committee shall place itself at the disposal of the parties concerned with a view to facilitating settlement of the matter on the basis of respect for the rights and obligations set forth in the Covenant.
>
> "4. If a settlement is reached, the Committee shall prepare a report containing a statement of the facts and of the solution reached."

H. Examination of communications

42. The first Optional Protocol to the International Covenant on Civil and Political Rights specifies that the Human Rights Committee shall base itself on "all written information made available to it by the individual and by the State Party concerned" (art. 5, para. 1). In practice this is a generous provision, since it does not exclude information from any source, provided only that it is specifically submitted by one party or the other. Nevertheless, it seems unduly restrictive and counterproductive for the Committee not to be able to take into account information which it has obtained for itself from other sources. In the present case, the Committee recommends the inclusion of authorization for such action to be undertaken by it, on condition that any such information would also be provided to the parties concerned for comment.

43. Article 5 of the first Optional Protocol to the International Covenant on Civil and Political Rights does not specify the procedures to be used by the Human Rights Committee in examining communications, other than to state that its examination shall take place in closed meetings. It is unnecessary for the draft optional protocol to be any more detailed and it would seem to

be sufficient to indicate that the Committee is empowered to adopt its own procedures for the consideration of communications and that such consideration should take place in private session. The only significant additional element recommended by the Committee concerns including the possibility of a visit to the territory of a State party as part of the Committee's examination of a communication. By providing such an option, to be employed only if the State party concerned wishes to exercise it, the procedure would have the flexibility required to enable the Committee, in cooperation with the State party, to tailor the best approach under the circumstances.

44. It is also proposed to indicate that the final views of the Committee will be made public at the same time as they are communicated to the parties directly involved. This is consistent with the existing practice of the Human Rights Committee.

45. The proposed text of article 7 is:

> "1. The Committee shall examine communications received under this Protocol in the light of all information made available to it by or on behalf of the author in accordance with paragraph 2, and by the State Party concerned. The Committee may also take into account information obtained from other sources, provided that this information is transmitted to the parties concerned for comment.
>
> "2. The Committee may adopt such procedures as will enable it to ascertain the facts and to assess the extent to which the State Party concerned has fulfilled its obligations under the Covenant.
>
> "3. As part of its examination of a communication, the Committee may, with the agreement of the State Party concerned, visit the territory of that State Party.
>
> "4. The Committee shall hold closed meetings when examining communications under this Protocol.
>
> "5. After examining a communication, the Committee shall adopt its views on the claims made in the communication and shall transmit these to the State Party and to the author, together with any recommendations it considers appropriate. The views shall be made public at the same time."

I. Results of examination

46. While the first Optional Protocol to the International Covenant on Civil and Political Rights provides only that the Human Rights Committee shall forward its views to the two concerned parties, the practice of that Committee, as well as of other comparable complaints procedures, has developed very significantly in recent years as regards the various follow-up procedures. It would therefore seem appropriate in drafting a protocol in the late 1990s to be more specific as to the recommendations which the Committee might make with a view to remedying any violation which it has identified. This approach would be entirely consistent with the importance attached by the International Covenant on Civil and Political Rights to the provision of an appropriate remedy for violations, and with the approach proposed in the study prepared for the Sub-Commission on Prevention of Discrimination and Protection

of Minorities concerning "the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms" (E/CN.4/Sub.2/1993/8).

47. Following the Committee's discussions, it is not recommended, however, to include a provision which would expressly obligate the State party concerned to implement the Committee's recommendations, to provide an appropriate remedy or to ensure the provision of adequate compensation where appropriate. While there is much to be said in policy terms for such measures, it is correct, as pointed out during the debates, that making such measures legally mandatory would transform the nature of the procedure from a quasi-judicial to a judicial one. In the latter case, more complex procedures in general would be necessary, including a greater variety of procedural safeguards for the parties concerned.

48. In paragraph 2 of article 8 it is proposed to extend the relevant time-limit to six months for the same reasons cited in relation to article 6, paragraph 2 (see para. 40 above).

49. The proposed text of article 8 is:

> "1. Where the Committee is of the view that a State Party has violated its obligations under the Covenant, the Committee may recommend that the State Party take specific measures to remedy the violation and to prevent its recurrence.
>
> "2. The State Party concerned shall, within six months of receiving notice of the decision of the Committee under paragraph 1, or such longer period as may be specified by the Committee, provide the Committee with details of the measures which it has taken in accordance with paragraph 1."

J. Follow-up procedures

50. Once again, while the first Optional Protocol to the International Covenant on Civil and Political Rights does not spell out the procedures which will be used in relation to following up on the adoption of views in particular cases, the Human Rights Committee has developed an extensive procedure for this purpose. In the present case, therefore, the Committee recommends that such a procedure be reflected in the draft optional protocol.

51. The proposed text of article 9 is:

> "1. The Committee may invite a State Party to discuss with it, at a mutually convenient time, the measures which the State Party has taken to give effect to the views or recommendations of the Committee.
>
> "2. The Committee may invite the State Party concerned to include in its reports under article 17 of the Covenant details of any measures taken in response to the Committee's views and recommendations.

"3. The Committee shall include in its annual report an account of the substance of the communication and its examination of the matter, a summary of the explanations and statements of the State Party concerned, of its own views and recommendations, and the response of the State Party concerned to those views and recommendations."

K. Rules of procedure and servicing

52. In view of the fact that the text of the Covenant itself does not contain specific provisions relating to the adoption of rules of procedure, the meetings of the Committee or the responsibility of the Secretary-General for the servicing of the Committee, it is recommended that this lack be remedied in relation to the communications procedure provided for in the optional protocol. The Committee therefore proposes provisions comparable to those contained in other major human rights treaties.

53. The proposed text of article 10 is:

"The Committee may make rules of procedure prescribing the procedure to be followed when it is exercising the functions conferred on it by this Protocol."

54. The proposed text of article 11 is:

"1. The Committee shall meet for such period as is necessary to carry out its functions under this Protocol.

"2. The Secretary-General of the United Nations shall provide the Committee with the necessary staff, facilities and finances for the performance of its functions under this Protocol, and in particular shall ensure that expert legal advice is available to the Committee for this purpose."

L. Final articles

55. For the most part, the final articles recommended for inclusion in the draft optional protocol follow closely those already contained in the first Optional Protocol to the International Covenant on Civil and Political Rights. Changes have been made only where this would seem necessary or appropriate for an instrument which may be adopted in the late 1990s rather than in 1966. In particular, the provisions requiring the Secretary-General to circulate the various documents and other information would seem to be superfluous today in view of the regular notification of States parties of all such developments.

56. The proposed text of the final articles is reproduced below. No commentary is offered at this stage in view of the fact that they are reasonably self-explanatory and that the Commission will need to resolve the more substantive matters dealt with in the earlier articles before finalizing these provisions.

57. The Committee discussed at some length the question whether reservations to the optional protocol should be permitted or excluded, or whether the protocol should be silent in relation to that matter. The Committee agreed to recommend that it would be appropriate for the Commission to consider providing for the lodging of reservations if it opts for a comprehensive approach in relation to the range of rights, as described in paragraph 28 above.

58. The proposed text of the final articles is:

"Article 12

"1. This Protocol is open for signature by any State Party to the Covenant.

"2. This Protocol is subject to ratification or accession by any State Party to the Covenant. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

"Article 13

"1. This Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the fifth instrument of ratification or accession.

"2. For each State ratifying this Protocol or acceding to it after its entry into force, this Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

"Article 14

"1. This Protocol will be binding on each State Party in respect of all territories subject to its jurisdiction.

"2. The provisions of this Protocol shall extend to all parts of federal States without any limitations or exceptions.

"Article 15

"1. Any State Party to this Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to this Protocol with the request that they notify him or her whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. If within four months from the date of such communication at least one third of the States Parties favour such a conference, the Secretary-General shall convene such a conference under the auspices of the United Nations. Any amendment adopted by majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

"2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to this Protocol in accordance with their respective constitutional processes.

"3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Protocol and any earlier amendment which they have accepted.

"Article 16

"1. Any State Party may denounce this Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

"2. Denunciations shall be without prejudice to the continued application of the provisions of this Protocol to any communication submitted before the effective date of denunciation.

"3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matters regarding that State.

"Article 17

"This Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations."

Notes

1/ A/CONF.157/24 (Part I), chap. III.

2/ See E/1992/23, paras. 360-366.

3/ E/C.12/1991/WP.2, E/C.12/1992/WP.9, E/C.12/1994/12 and E/C.12/1996/CRP.2/Add.1.

4/ See E/C.12/1994/SR.42, 45 and 56; E/C.12/1995/SR.5 and 50; E/C.12/1996/SR.19-20; E/C.12/1996/SR.43, 45, 46/Add.1, 47-49 and 54/Add.1.

5/ F. Coomans and G.J.H. van Hoof, eds., The Right to Complain about Economic, Social and Cultural Rights: Proceedings of the Expert Meeting on the Adoption of an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Utrecht, 25-28 January 1995) (Utrecht, Netherlands Institute of Human Rights, 1995).

6/ See Official Records of the General Assembly, Fiftieth Session, Supplement No. 38 (A/50/38), chap. I, sect. B, suggestion 7. For a comprehensive analysis, see A. Byrnes and J. Connors, "Enforcing the human rights of women: A complaints procedure for the women's Convention?", Brooklyn Journal of International Law, vol. XXI, No. 3 (1996), p. 679.

7/ See Official Records of the Economic and Social Council, 1996, Supplement No. 6 (E/1996/26-E/CN.6/1996/15), annex III.

8/ OAS, Treaty Series, No. 69.

9/ European Treaty Series, No. 158.

Annex V

Letter addressed by the Chairperson of the Committee on Economic, Social and Cultural Rights to Mr. José Ayala-Lasso, United Nations High Commissioner for Human Rights

26 January 1996

Dear High Commissioner,

I am writing to you to follow up on two matters that I raised with you in our meeting in September last year and which were again the subject of critical comment during the most recent session of the Committee on Economic, Social and Cultural Rights. I fear that if a satisfactory outcome is not achieved shortly in relation to these two issues the Committee will have difficulty avoiding harsh criticism of the Centre for Human Rights.

The first relates to the staff member who was to be recruited to become the first specialist in the entire Centre in the field of economic, social and cultural rights and to work directly for the Committee. This post was established some two years ago and has, apparently, been temporarily deployed elsewhere in the Centre. If no appointment has been made within the next couple of months it will send a fairly clear signal as to the priority to be accorded to economic, social and cultural rights.

The second relates to the seminar which was supposed to have been held in conjunction with the World Bank and which the Bank was prepared to organize as long as two years ago. It is clear that the continuing delays have been caused by the actions or inaction of the Centre and you had personally assured me in September that you would break the log-jam. My colleagues and I are very anxious to learn what has happened since that time.

Both of these issues would appropriately be taken up, in the strongest possible terms, on the next occasion that the Chairpersons of the treaty bodies meet in person with the Secretary-General. I very much hope that they will have been resolved well before that time.

Yours sincerely,

Philip Alston
Chairperson, Committee on
Economic, Social and Cultural Rights

Annex VI

Letter addressed by the United Nations High Commissioner for Human Rights to Mr. Philip Alston, Chairperson of the Committee on Economic, Social and Cultural Rights

18 April 1996

Dear Professor Alston,

I acknowledge receipt of your letter of 26 January 1996. I am fully aware of the concerns to which you refer.

In relation to the appointment of a specialist in the field of economic, social and cultural rights, working for the Committee on Economic, Social and Cultural Rights, I can assure you that this question will be fully taken into account within the framework of the ongoing process of restructuring of the Centre for Human Rights, of which you are already informed.

Human rights bodies have, over the past few years, invited the international financial institutions to consider the possibility of organizing an expert seminar on the role of those institutions in the realization of economic, social and cultural rights. Those institutions have been regularly informed of these requests. The World Bank had indicated a readiness to discuss the organization of a meeting to discuss human rights issues and discussions took place with a view to finding a satisfactory framework for a seminar as envisaged by the Commission on Human Rights.

For my part, I believe that a first helpful step would be to allow international human rights experts and officials of financial institutions to exchange information and ideas on their respective mandates and methods of work as a preliminary step to eventual further discussions. With this in mind I wrote to the President of the World Bank in December 1995 suggesting the organization of a meeting to exchange information and views between officials of the Bank and United Nations human rights officials and experts regarding human rights as viewed from the perspective of the two mandates. The meeting would include discussion of standards and mechanisms, areas of information and activities of mutual interest, and modalities for future work.

I am happy to say that the reaction of the Bank has been positive and it is our hope to be able to organize this meeting during the first semester of this year.

I understand the strength of your feelings relating to the promotion and protection of economic, social and cultural rights and I do agree on their high importance. Nevertheless, I must regret the tone which your strong feelings led you to adopt. Accepting criticism for choices insufficiently understood is part of the job of High Commissioner. That job, however, is facilitated when criticism is constructive.

Yours sincerely,

José Ayala-Lasso

United Nations High Commissioner
for Human Rights

Annex VII

PROGRAMME OF ACTION TO STRENGTHEN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Introduction

1. This programme of action has been drawn up at the request of the Committee on Economic, Social and Cultural Rights. At its fifteenth session, the Committee recognized the importance of adopting a comprehensive programme to be forwarded to the United Nations High Commissioner for Human Rights for consideration by all the relevant bodies within the human rights domain. The proposed programme takes full account of discussions at successive sessions of the Committee and is designed to ensure that adequate attention is given to the commitment to promote respect for the International Covenant on Economic, Social and Cultural Rights and to the central role to be played in that regard by the Committee on Economic, Social and Cultural Rights.

2. The year 1996 marked the thirtieth anniversary of the adoption of the Covenant, the twentieth anniversary of its entry into force, and the end of the first 10 years of the work of the Committee.

I. THE CHALLENGE

3. Economic and social rights are recognized in many of the major international human rights treaties, including in particular the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. But the Covenant, with 135 States parties, remains the foundation stone on which these formulations have been built.

4. The challenge in giving substance to economic, social and cultural rights remains enormous, not only because so little effort has been made by the international community to date, but also because of the complexity of the issues that must be addressed. That complexity arises not only from the nature of the rights themselves, but also from the dramatically uneven levels of economic development that have been achieved, the impact of "globalization" on national economies, and the shrinking role of the States. These challenges, however, serve only to emphasize the importance of developing more effective, nuanced and constructive approaches in promoting these rights. A world in which economic, social and cultural rights are neglected will not long be one in which civil and political rights can thrive. The fundamental assumptions on which the international human rights system is based are thus at risk unless a balanced approach can be achieved.

5. The centrepiece of international efforts to promote economic, social and cultural rights has been the Committee on Economic, Social and Cultural Rights. It is the only body in the United Nations system devoted entirely to these rights. It has the legal mandate to cooperate both with the States parties to the Covenant and with the various bodies and specialized agencies of the United Nations concerned with economic, social and cultural rights. The centrality of the Committee's role has long been acknowledged within the human rights domain and is gaining increasing recognition throughout the rest of the system. Its role was specifically emphasized by the World Summit

for Social Development (Copenhagen, March 1995), the United Nations Conference on Human Settlements (Habitat II) (Istanbul, June 1996) ("The important role of the Committee ... in monitoring ... States parties' compliance with the ... Covenant ... should be emphasized." 1/) and the World Food Summit (Rome, November 1996) (invites the Committee "to give particular attention to this Plan of Action" and to help "to better define the rights related to food in article 11 of the Covenant and to propose ways to implement and realize these rights" 2/).

6. If the future work of the Committee in assisting Governments to promote respect for economic, social and cultural rights is to be effective, the Committee must be enabled to build on the foundations which it has laid during its first decade. Experience shows that this will require three types of support: (a) substantive support to facilitate the Committee's work with States parties in relation to the reporting process; (b) analytical support to enable the Committee to contribute effectively to the various activities which it is increasingly being called upon to perform; (c) expertise and general support to enable the Committee to work constructively with States parties and United Nations agencies and others in following up on its recommendations designed to enhance the realization of economic, social and cultural rights.

7. In keeping with the particular prominence accorded to economic, social and cultural rights in the mandate given him by the General Assembly, the United Nations High Commissioner for Human Rights has indicated that he attaches very great importance to the implementation of a programme of action for the Committee.

II. ASSISTANCE REQUIRED

8. In terms of its procedures for working with States parties, the Committee on Economic, Social and Cultural Rights has been the most innovative of all the treaty-monitoring bodies and has explored various approaches designed to reduce the burden of reporting for States parties. Many of its procedural and other innovations have subsequently been adopted by the other treaty bodies and have been warmly welcomed by the Commission on Human Rights, the Economic and Social Council and the General Assembly. Nevertheless, the Committee has been unable to take full advantage of its own efforts because of a lack of expert staff assistance. To a greater extent than other treaty bodies, the Committee on Economic, Social and Cultural Rights is called upon to deal with issues that are particularly complex and receive very little attention from the perspective of particular rights elsewhere within the international system. It has done so to date with the assistance of only one member of the staff of the Centre for Human Rights of the United Nations.

9. It is therefore proposed to strengthen the assistance available to the Committee from within the Centre for Human Rights through the appointment of three staff members with specialist expertise in the range of issues dealt with by the Committee. Two of these persons would be appointed at the P-3 level and one at the P-2 level, all for an initial period of three years. Annual periodic reviews would be undertaken, as well as a comprehensive evaluation at the end of the three-year period in order to assess the programme's effectiveness. It is estimated that a budget of US$ 547,372 would be required for each year of the three-year period (see appendix).

III. SPECIFIC ACTIVITIES TO BE SUPPORTED

A. Support for the reporting process

10. The Committee has a significant backlog of States parties' reports awaiting consideration. It is examining various approaches which would enable it to deal more expeditiously with reports, but it will require staff assistance if it is to do so while maintaining the quality of the reporting process. Support is particularly required in order to prepare the preliminary analysis of States parties' reports for consideration by the Committee (or, in the case of a new procedure replacing the existing process of periodic reports, for the preparation of a list of issues in relation to which a report is required). There is a wealth of information available concerning economic and social mandates generally, but considerable expertise is required to locate the most relevant information and, more importantly, to analyse it within the legal framework of the Covenant. Such assistance would also help the Committee to identify priority areas of action and to develop constructive recommendations. The support staff would not perform the basic servicing tasks already carried out by the Centre for Human Rights.

B. Analytical support

11. The Committee is called upon to follow a wide range of matters within the United Nations system as a whole and to be able to take account of current developments as they affect the realization of economic, social and cultural rights. Expert assistance is required to enable the Committee to liaise with the other agencies involved, to identify and analyse emerging trends and to prepare research papers which would provide the basis for the elaboration of policy positions on the key issues with which the Committee must deal. The Committee would also be able to make more effective use of the information generated in reports by special rapporteurs and thematic mechanisms, thus enhancing coordination and avoiding duplication.

C. Follow-up

12. Articles 22 and 23 of the Covenant attach particular importance to the identification of technical cooperation and other activities designed to assist in promoting the realization of economic, social and cultural rights. The Committee has been unable to give sufficient attention to this dimension of its work because of a lack of assistance. It would henceforth be able to work more constructively with various United Nations agencies, to identify more carefully tailored suggestions for advisory services and to undertake better follow-up. The Committee would also seek to assist States in both the reporting and follow-up processes through the organization of workshops to assist government officials and training courses for the various social partners at the national level.

Notes

1/ A/CONF.165/14, chap. I, resolution 1, annex II (Habitat Agenda), para. 233.

2/ Report of the World Food Summit, 13-17 November 1997, Part one (Rome, Food and Agriculture Organization of the United Nations, 1997), pp. 122-123, Appendix, World Food Summit Plan of Action, para. 61, Objective 7.4 (c) and (e).

Appendix

PRELIMINARY COST ESTIMATES
(US dollars per annum)

Staff assistance			
2 P-3	(119,200 x 2)	.....	238 400
1 P-2		.....	96 000
			334 400
Implementation and technical cooperation			
Workshops to assist government officials in reporting and follow-up; economic, social and cultural rights training courses		.....	150 000
Subtotal			484 400
United Nations programme support cost (13%)		.....	62 972
Total			547 372

Annex VIII

A. LIST OF STATES PARTIES' DELEGATIONS WHICH PARTICIPATED IN THE CONSIDERATION OF THEIR RESPECTIVE REPORTS BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AT ITS FOURTEENTH SESSION

PARAGUAY	Representative:	H.E. Mr. Eladio Loizaga Caballero Ambassador Permanent Representative of Paraguay to the United Nations Office at Geneva
	Adviser:	Mr. Rodrigo Ugarriza Second Secretary Permanent Mission of Paraguay to the United Nations Office at Geneva
SPAIN	Representative:	Mr. Agustín Núñez Assistant Director-General for United Nations Affairs Ministry of Foreign Affairs
	Advisers:	Mr. José Ramón Aparicio Gómez-Lobo Assistant Director-General for Promotion and Social Integration Office of Migration Ministry of Social Affairs
		Mr. Manuel Avila Assistant Director-General for Special Education and Diversity Ministry of Education and Science
		Mr. José Lázaro Assistant Director-General for International Cooperation Ministry of Culture
		Mr. José María González Escolar Assistant Director-General National Employment Office
		Mr. Juan Manuel González de Linares Counsellor Permanent Mission of Spain to the United Nations Office at Geneva
		Mr. Joaquín Albalate Lafita Counsellor for Social and Labour Affairs Permanent Mission of Spain to the United Nations Office at Geneva

Ms. Trinidad Rodríguez Maestu
Languages Adviser
Office of Education
Embassy of Spain, Bern

Ms. Yolanda Ayuso Estévez
Head
Legal Studies Department
Institute for Women's Affairs

Ms. Dolores Sánchez García
Senior Legal Officer
Institute for Women's Affairs

GUATEMALA — Representative: Mr. Vicente Arranz Sanz
Chairman
Presidential Committee for Coordination of Human Rights Policy (COPREDEH)

Advisers: Mr. Denis Alonzo Mazariegos
Executive Director
COPREDEH

Mr. Ricardo Díaz-Duque
Minister-Counsellor
Chargé d'affaires a.i.
Permanent Mission of Guatemala to the United Nations Office at Geneva

Mr. Nelson Rafael Olivero
First Secretary
Permanent Mission of Guatemala to the United Nations Office at Geneva

EL SALVADOR — Representative: Mr. Alexander Kellman
Head
Office of Social Affairs
Ministry of Foreign Affairs

Advisers: H.E. Mr. Carlos Ernesto Mendoza
Ambassador
Permanent Representative of El Salvador to the United Nations Office at Geneva

H.E. Ms. Margarita Escobar
Ambassador
Deputy Permanent Representative of El Salvador to the United Nations Office at Geneva

Ms. Lilian Alvarado-Overdiek
Counsellor
Permanent Mission of El Salvador to the
United Nations Office at Geneva

B. LIST OF STATES PARTIES' DELEGATIONS WHICH PARTICIPATED IN THE CONSIDERATION OF THEIR RESPECTIVE REPORTS BY THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AT ITS FIFTEENTH SESSION

PORTUGAL

Representative:

Mr. Jorge Costa Oliveira
Cabinet Coordinator for Legislative
Affairs

Advisers:

Ms. Virginia Silva
Adviser to the Assistant Secretary for
Communications, Tourism and Culture

Ms. Isabel Fezas Vital
Adviser to the Assistant Secretary for
Coordination and Culture

Ms. Albina Silva
Assistant Director
Office of Education and Youth Services

Mr. Beltrão Loureiro
Assistant Director
Office of Labour and Employment Services

Mr. Paulo Pereira Vidal
Deputy Coordinator
Office of Legislative Affairs

Mr. Eduardo Aleixo
Vice-Chairman
Board of Directors
Social Security Fund

Dr. Fernando Silva
Physician and specialist in
public health
Epidemiological Monitoring Office
Health Services Department, Macau

Mr. Amical Bastista Feio
Legal Expert
Housing Institute, Macau

Mr. José Sérgio Calheiros da Gama
Counsellor for Legal Affairs
Permanent Mission of Portugal to the
United Nations Office at Geneva

BELARUS	Representative:	Mr. Ivan Antanovich Deputy Minister for Foreign Affairs
	Advisers:	Ms. Maryna Satolina Deputy Head of Department Ministry of Justice
		Ms. Alena Kpuchyna Counsellor Permanent Mission of Belarus to the United Nations Office at Geneva
		Mr. Uladzimir Shcherbau Attaché Ministry of Foreign Affairs
FINLAND	Representative:	Mr. Matti Salmenperä Director Ministry of Labour
	Advisers:	Ms. Riitta Kaivosoja Counsellor of Government Ministry of Education
		Ms. Riitta-Maija Jouttimäki Counsellor of Legislation Ministry of Social Affairs and Health
		Ms. Päivi Pietarinen Legal Officer Ministry of Foreign Affairs
		Ms. Irmeli Mustonen Minister-Counsellor Permanent Mission of Finland to the United Nations Office at Geneva
UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND	Representative:	Mr. Henry Steel Foreign and Commonwealth Office
	Advisers:	Mr. Daniel R. Fung Solicitor-General Legal Department, Hong Kong
		Mr. Stephen Wong Kai-Yi Principal Crown Counsel Legal Department, Hong Kong

Mr. Jeremy Croft
Principal Assistant Secretary for
Home Affairs
Home Affairs Department, Hong Kong

Mr. John Sherwin
Principal Assistant Secretary
for Security
Security Branch, Hong Kong

Mr. William Shiu
Principal Assistant Secretary
for Housing
Housing Branch, Hong Kong

Ms. Miranda Chiu
Principal Assistant Secretary for
Health and Welfare
Health and Welfare Branch, Hong Kong

Mr. Anthony M. Reynalds
Principal Assistant Secretary for
Education and Manpower
Education and Manpower Branch, Hong Kong

Sir John Ramsden
Deputy Permanent Representative of the
United Kingdom of Great Britain and
Northern Ireland to the United Nations
Office at Geneva

Ms. Sarah Foulds
First Secretary
Permanent Mission of the United Kingdom
of Great Britain and Northern Ireland to
the United Nations Office at Geneva

Mr. Colin Wells
Third Secretary
Permanent Mission of the United Kingdom
of Great Britain and Northern Ireland to
the United Nations Office at Geneva

Annex IX

A. LIST OF DOCUMENTS OF THE COMMITTEE AT ITS FOURTEENTH SESSION

E/1990/5/Add.23	Initial reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15: Paraguay
E/1990/5/Add.24	Idem: Guatemala
E/1990/5/Add.25	Idem: El Salvador
E/1990/6/Add.7	Second periodic reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15: Dominican Republic
E/1994/104/Add.5	Third periodic reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15: Spain
E/1996/22	Report of the Committee on Economic, Social and Cultural Rights on its twelfth and thirteenth sessions
E/1996/40	Twenty-first report of the International Labour Organization
E/C.12/1990/4/Rev.1	Rules of procedure of the Committee
E/C.12/1991/1	Revised general guidelines regarding the form and contents of reports to be submitted by States parties under articles 16 and 17 of the Covenant: note by the Secretary-General
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E/C.12/1996/NGO/3	Written statement submitted by the Confederation of Workers (Paraguay) and the International Confederation of Free Trade Unions
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E/C.12/1996/SR.1-26 and E/C.12/1996/ SR.1-26/Corrigendum	Summary records of the fourteenth session (1st to 26th meetings) of the Committee on Economic, Social and Cultural Rights

B. LIST OF DOCUMENTS OF THE COMMITTEE AT ITS FIFTEENTH SESSION

E/1990/6/Add.7	Second period reports submitted by States parties to the Covenant concerning rights covered by articles 1 to 15: Dominican Republic
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E/C.12/1/Add.7/Rev.1	Concluding observations of the Committee on Economic, Social and Cultural Rights: Belarus
E/C.12/Add.8	Idem: Finland
E/C.12/1/Add.9	Idem: Portugal (Macau)
E/C.12/1/Add.10	Idem: United Kingdom of Great Britain and Northern Ireland (Hong Kong)
E/C.12/1996/SR.27-55/ Add.1 and E/C.12/1996/ SR.27-55/Add.1/ Corrigendum	Summary records of the fifteenth session (27th to 55th meetings) of the Committee on Economic, Social and Cultural Rights

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